



United States Department of State

BUREAU OF NONPROLIFERATION AFFAIRS *Washington, D.C. 20520*
OFFICE OF NUCLEAR ENERGY AFFAIRS

June 3, 2003

TO: Suzanne Schuyler-Hayes
Team B
Office of International Programs
United States Nuclear Regulatory Commission
PH: 301 415 2333; FAX: 301 415 2395

FROM: NP/NE – Robin DeLaBarre
PHONE: 202 647 8978
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SUBJECT: XMAT0400Amendment 02--Poco Graphite Request for Amendment to Increase the Quantities of Nuclear Grade Graphite Authorized for Export to Various Countries, to Extend the Validity of the License and to Add a Russian Consignee

Transmitted for NRC action is a copy of the signed Executive Branch letter recommending approval of the subject application. The original will follow via NRC Courier.

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United States Department of State

Washington, D.C. 20520

June 3, 2003

Ms. Janice Dunn Lee
Director, International Programs
United States Nuclear Regulatory Commission
Rockville, Maryland

Dear Ms. Lee:

I refer to the letter from your office dated January 28, 2003, requesting the views of the Executive Branch as to whether amendment of an export license in accordance with the application hereinafter described meets the applicable criteria of the Atomic Energy Act of 1954, as amended:

NRC No. XMAT0400 - Poco Graphite, Inc. has applied for an amendment of its existing license which authorizes export to various countries of bulk nuclear grade graphite for non-nuclear uses to: 1) increase the total amount authorized for export to all countries combined from 750 short tons (680,385 kilograms) to 1,500 short tons (1,360,791 kilograms); 2) increase the maximum for individual shipments from 18,000 kilograms to 54,000 kilograms; 3) add Charmilles Diffusion, a Russian manufacturer and distributor, as another party to the export; and 4) extend the expiration date from January 29, 2003 to January 29, 2005.

It is the judgment of the Executive Branch that the proposed exports under the requested license amendment will not be inimical to the common defense and security of the United States and are consistent with the provisions of the Atomic Energy Act, as amended, provided the license is limited to the quantities specified above to the following countries/destinations: members of the European Union, Canada, Czech Republic, Japan, New Zealand, Romania, Singapore, Switzerland and Taiwan. The exporters request to add a Russian consignee at this time cannot be approved above general license levels until the Russian Government provides the U.S. Government the necessary assurances confirming the right of prior U.S. consent to retransfers of U.S.-origin bulk nuclear grade graphite.

As parties to the NPT, all of the foregoing countries/destinations have committed to maintain IAEA safeguards on all of their peaceful nuclear activities and have pledged not to produce or otherwise acquire any nuclear explosive device. It is therefore the view of the Executive Branch that Criteria (1) and (2) for exports of nuclear components, substances and items under section 109b of the Atomic Energy Act, as amended, are met.

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The remaining criterion, agreement not to retransfer any U.S.-supplied component, heavy water or nuclear grade graphite without prior U.S. consent, has been satisfied by receipt of generic assurances from all the countries/destinations, listed in the above proviso except Singapore. These generic assurances confirm the right of U.S. prior consent to retransfers of U.S.-origin nuclear components, heavy water and nuclear grade graphite. Singapore has furnished a new two year Import and Delivery Verification Certificate (IDVC), dated February 10, 2003, which confirms that there will be no retransfer of the U.S.-supplied graphite to any other country without prior U.S. Government consent except to the ASEAN countries—Brunei, Indonesia, Malaysia, Philippines and Thailand.

In view of the foregoing, the validity of the license should be limited to the date of expiration of the current IDVC issued by the Government of Singapore and the license should be conditioned to limit reexports by Singapore to manufactured non-nuclear articles or general license quantities of bulk graphite.

On the basis of the foregoing, the Executive Branch recommends that the license be amended as requested, subject to the provisos set forth above.

Sincerely,



Robin DeLaBarre
Acting Director
Nuclear Energy Affairs

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